

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
April 11, 2005

**D043702        Snow v. Almeida**

The order dismissing the petition for writ of mandate and request for declaratory relief is affirmed. CERTIFIED FOR PUBLICATION. O'Rourke, J.; We Concur: McConnell, P.J., Huffman, J.

**D046170        U.S. Grant Hotel Ventures v. Superior Court of San Diego County/American Property Management Corporation et al.**

At the request of petitioner, the petition for writ of mandate and supersedeas is dismissed.

**D044986        People v. Mills**

The judgment is modified by striking the conviction of possessing cocaine base for sale (Health & Saf. Code, § 11351.5). As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward it to the Department of Corrections. McDonald, J.; We Concur: Haller, Acting P.J., O'Rourke, J.

**D045289        Eduardo V. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The petition is denied. Huffman, J.; We Concur: Benke, Acting P.J., Nares, J.

**D043044        Redevelopment Agency of the City of San Diego v. Attisha et al.**

The judgment is reversed insofar as it concerns valuation of goodwill, and the matter is remanded for a new trial on that issue. The judgment is affirmed in all other respects. The Attishas' are awarded costs on appeal. CERTIFIED FOR PUBLICATION. McConnell, P.J.; We Concur: O'Rourke, J., Aaron, J.

**D044899        Versaci v. Superior Court of San Diego County/Palomar Community College District**

The petition for rehearing is denied.

**D042985        People v. Nathan**

The judgment is affirmed. Huffman, J.; We Concur: McConnell, P.J., O'Rourke, J.

**D045295        In re I.M., a Juvenile**

The order is affirmed. McConnell, P.J.; We Concur: Huffman, J., McIntyre, J.

**D045916        Attisha v. Superior Court of San Diego County/Redevelopment Agency of San Diego**

The petition is denied.

**D045255        Smith v. Superior Court of San Diego County/People**

At the request of petitioner, the petition for a writ of mandate is DISMISSED.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
April 12, 2005

**D042552        People v. Ortiz**

The judgment is affirmed. O'Rourke, J.; We Concur: Benke, Acting P.J., Huffman, J.

**D045504        In re David S., a Juvenile**

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 30.3).

**D046028        Shales et al. v. Superior Court of San Diego County/Richley et al.**

The petition is dismissed as moot.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
April 13, 2005

**D046007        In re the Marriage of Betita**

Pursuant to California Rules of Court, rule 8, the appeal filed March 1, 2005, is dismissed for appellant's failure to timely designate the record.

**D045987        Foss v. Gorse**

Pursuant to California Rules of Court, rule 8, the appeal filed February 18, 2005, is dismissed for failure of appellant to timely deposit costs for preparing the record on appeal.

**D045932        In re Byrd on Habeas Corpus**

The petition is denied.

**D046022        In re Llorens on Habeas Corpus**

The petition is denied.

**D046023        In re Nichols on Habeas Corpus**

The petition is denied.

**D046056        In re Maier on Habeas Corpus**

The petition is denied.

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Cynthia Aaron  
Clerk: D. Moore

**D044674        In re Carl R., a Juvenile**

Cause called on merits. Julie E. Braden, Esq. argued for appellant, Carl R. Donna Kaiser, Esq. argued for appellant, Renne B. Paula Roach, Deputy County Counsel argued for respondent. Ms. Braden replied. Ms. Kaiser replied. Cause submitted.

**D044145        People v. Cruz**

Cause called on merits. Joanna McKim, Esq. argued for appellant. Quisteen Shum, Deputy Attorney General argued for respondent. Ms. McKim replied. Cause submitted.

Court recessed at 10 a.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and James McIntyre

**D043072        People v. Hutto**

Cause called on merits. Carmela F. Simoncini, Esq. argued for appellant. Warren Robinson, Deputy Attorney General argued for respondent. Ms. Simoncini replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
April 13, 2005 (Continued)

**D043941        People v. Vaughn**

Cause called on merits. Richard L. Schwartzberg, Esq. argued for appellant. Garry Haehnle, Deputy Attorney General argued for respondent. Mr. Schwartzberg replied. Cause submitted.

Court recessed at 10:45 a.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Cynthia Aaron

**D043571        People v. Tanner**

Cause called on merits. Gary Roberts, Esq. argued for appellant. Garry Haehnle, Deputy Attorney General argued for respondent. Mr. Roberts replied. Cause submitted.

Court recessed at 11:10 a.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate justices James McIntyre and Cynthia Aaron

**D044847        Adoption of Dylan M.**

**D045467        In re Dylan M. on Habeas Corpus**

Causes called on merits. Christopher R. Booth, Esq. argued for appellant. No appearance by Christopher Blake, Esq. on behalf of the minor. Craig E. Arthur, Esq. argued for respondent. Mr. Booth replied. Cause submitted as to D044847 ONLY.

Court recessed at 11:36 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Cynthia Aaron

Clerk: D. Moore

**D042164        Graham v. City of San Diego et al.**

Cause called on merits. Graham appeal ~ Robert P. Otilie, Esq. argued for respondent/cross-appellant. Mark T. Dea, Esq. argued for appellant/cross-respondent. Mr. Otilie replied. Ford appeal ~ Mark T. Dea, Esq. argued for appellant/cross-respondent. Robert P. Otilie, Esq. argued for respondent/cross-appellant. Mr. Dea replied. City appeal ~ David J. Karlin, Deputy City Attorney argued for appellant. Mark T. Dea, Esq. argued for appellant/cross-respondent. Robert P. Otilie, Esq. argued for respondent/cross-appellant. Mr. Karlin replied. Mr. Dea replied. Cause submitted.

Court recessed at 2:23 p.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Cynthia Aaron

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
April 13, 2005 (Continued)

**D042800        Galinski v. Johnson**

**D043164        Johnson v. Superior Court/Galinski-RPI**

Causes called on merits. Nancy Helene McCoy, Esq. argued for appellant/cross-respondent. N. Denise Asher, Esq. argued for respondent/cross-appellant. Jon R. Williams, Esq. was present in oral argument for respondent/cross-appellant, but did not argue. Ms. McCoy replied. Cause submitted as to D042800 ONLY.

Court recessed at 3:02 p.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Alex McDonald

**D044671        Schmidt v. City of Imperial Beach**

Cause called on merits. Michael M. Hogan, Esq. argued for appellant. William L. Fischbeck, Esq. argued for respondent. Mr. Hogan replied. Cause submitted.

Court recessed at 3:38 p.m. until Thursday, April 14, 2005 at 9 a.m.

**D042157        People v. Smith**

It is ordered that the opinion filed on March 17, 2005, be modified. There is no change in judgment. The petition for rehearing is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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DIVISION ONE  
April 14, 2005

**D043734        People v Battaglia**

The judgment is affirmed. McDonald, J.; We Concur: Benke, Acting P.J., Haller, J.

**D044092        People v. Joyner**

The judgment is affirmed. Haller, Acting P.J.; I Concur: McDonald, J.;  
I Concur in the Result: Irion, J.

**D044995        In re Joseph S., a Juvenile**

The judgment is affirmed. Haller, Acting P.J.; We Concur: McIntyre, J., Irion, J.

**D045201        In re T.W. and P.H., Juveniles**

The orders terminating parental rights and selecting adoption as the permanent plans are affirmed.  
Huffman, J.; We Concur: McConnell, P.J., Nares, J.

**D044266        First Nation Gaming, LLC v. Campo Band of Mission Indians**

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is  
ordered to issue immediately. Each party to bear own costs on appeal.

**D042440        La Jolla Citizens Foundation, Inc. v. City of San Diego**

The order is affirmed. Each party to bear its own costs on appeal. Aaron, J.; We Concur: McConnell, P.J.,  
Nares, J.

**D044250        People v. Hawkins**

The judgment is affirmed. Nares, J.; We Concur: McConnell, P.J., Aaron, J.

**D043617        People v. Palmieri**

The judgment is affirmed. McDonald, J.; I Concur: Haller, Acting P.J.; Concurring in the Result: Irion,  
J.

**D044222        People v. Jones**

The order is affirmed. Huffman, J.; We Concur: McConnell, P.J., Benke, J.

**D043455        Rombe Corporation v. Allied Insurance Company**

The opinion filed April 1, 2005, is ordered certified for publication.

Court convened at 9:00 a.m.

Present: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices  
Alex McDonald and Joan Irion  
Clerk: D. Moore

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
April 14, 2005 (Continued)

**In re Christopher N., a Juvenile**

Cause called on merits. Matthew Braner, Deputy Public Defender argued for appellant. Rebecca Peterson, Certified Law Student argued for respondent. Mr. Braner replied. Cause submitted.

Court recessed at 9:30 a.m. to change panels. New panel members: The Honorable Alex McDonald, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Joan Irion

**D044159        Greene v. Weisbrod**

Cause called on merits. David R. Weisbrod, argued for appellant in pro per. Jonathan Hangartner, Esq. argued for respondent. Mr. Weisbrod replied. Cause submitted.

Court recessed at 9:48 a.m. to change panels. New panel members: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Joan Irion

**D043830        Feeney v. Sepich**

Cause called on merits. John Michael Taylor, Esq. argued for appellant. John D. Culver, Jr., Esq. argued for respondent. Mr. Taylor replied. Cause submitted.

Court recessed at 10:25 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and James McIntyre  
Clerk: D. Moore

**D044031        People v. Clutter**

Cause called on merits. Russell S. Babcock, Esq. argued for appellant. Angela Borzachillo, Deputy Attorney General argued for respondent. Cause submitted.

**D044361        Rogers et al. v. United Services Automobile Association**

Cause called on merits. Cause called on merits. Charles A. LiMandri, Esq. argued for appellant/cross-respondent. Gregory Kane, Esq. argued for respondent/cross-appellant. Mr. LiMandri replied. Cause submitted.

Court recessed at 2:30 p.m. to change panels. New panel members: The Honorable Alex McDonald, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Joan Irion

**D044101        People v. Viel**

**D045827        In re Viel on Habeas Corpus**

Causes called on merits. Charles Khoury, Esq. argued for appellant. Marvin Mizell, Deputy Attorney General argued for respondent. Mr. Khoury replied. Cause submitted as to appeal only, D044101.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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April 14, 2005 (Continued)

**D043652        People v. Snipes**

Cause called on merits. Patrick J. Hennessey, Esq. argued for appellant. Bradley Weinreb, Deputy Attorney General argued for respondent. Mr. Hennessey replied. Cause submitted.

**D043908        Thompson v. 10,000 RV Sales, Inc.**

Cause called on merits. Holly Coates Keehn, Esq. argued for appellant. Hallen D. Rosner, Esq. argued for respondent. Ms. Keehn replied. Cause submitted.

Court recessed at 4:10 p.m. until Friday, April 15, 2005 at 9 a.m.

**D044596        Econo Lube N' Tune, Inc. v. Pavanis I, LLC**

The request for publication is denied.



COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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DIVISION ONE  
April 15, 2005

Court convened at 9 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Cynthia Aaron  
Clerk: D. Moore

**D044385 Timmes v. Puzo**

Cause called on merits. Cheryl Edwards Tannenberg, Esq. argued for appellant. Joel G. Selik, Esq. argued for respondent. Ms. Tannenberg replied. Cause submitted.

**D043616 People v. DeGracia**

Cause called on merits. Daniel G. Koryn, Esq. argued for appellant. Marvin Mizell, Deputy Attorney General argued for respondent. Mr. Koryn replied. Cause submitted.

**D044901 Tevelson v. Walters**

Cause called on merits. Timothy J. McDermott, Esq. argued for appellant. Stephen Temko, Esq. argued for respondent. Mr. McDermott replied. Cause submitted.

Court recessed at 9:45 a.m. to change panels. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Gilbert Nares

**D044734 Carnohan v. Home Depot U.S.A., Inc.**

Cause called on merits. Michael Casey Carnohan argued for appellant, in pro per. Michael J. Sexton, Esq. argued for respondent. Mr. Carnohan replied. Cause submitted.

Court recessed at 10:03 a.m. to change panels. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Cynthia Aaron

**D044184 Balance Sports Corporation et al. v. Fischl et al.**

Cause called on merits. Steven Ray Young, Esq. argued for appellant. Gerald P. Peters, Esq. argued for respondent. Mr. Young replied. Cause submitted.

Court adjourned at 10:30 a.m.

**D045503 In re Jenna P. et al., Juveniles**

The appeal is dismissed. McConnell, P.J.; We Concur: Benke, J., McIntyre, J.

**D044104 People v. Rosales**

The judgment and sentence are affirmed. McDonald, J.; We Concur: Haller, Acting P.J., O'Rourke, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
April 15, 2005 (Continued)

**D045053        People v. Gray**

The judgment is affirmed. McConnell, P.J.; We Concur: McIntyre, J., Irion, J.

**D045081        In re Consiglio on Habeas Corpus**

The petition is denied. CERTIFIED FOR PUBLICATION. McConnell, P.J.; I Concur: Aaron, J., I Concur in the Result: Irion, J.

**D044422        People v. Wiseman**

The judgment is affirmed. McDonald, J.; We Concur: Haller, Acting P.J., O'Rourke, J.

**D045122        In re Jamey R., a Juvenile**

The order is affirmed. Irion, J.; We Concur: McDonald, Acting P.J., McIntyre, J.

**D045292        In re Evelyn V., a Juvenile**

The order is affirmed. Aaron, J.; We Concur: McConnell, P.J., McIntyre, J.

**D045056        People v. Carranza**

The judgment is affirmed. Benke, J.; We Concur: McConnell, P.J., Haller, J.

**D044985        People v. Wible**

The judgment is affirmed. The matter is remanded for correction of the abstract of judgment. The trial court shall forward the amended abstract of judgment to the Department of Corrections. Irion, J.; We Concur: McConnell, P.J., McIntyre, J.

**D044846        In re Devin G., a Juvenile**

The judgment is affirmed. McDonald, J.; We Concur: Huffman, Acting P.J., Nares, J.

**D046096        Ott v. Superior Court of San Diego County/People**

The petition is denied.

**D044318        People v. Ojeda**

The judgment is affirmed. Irion, J.; We Concur: McConnell, P.J., McIntyre, J.

**D044718        In re P. R. et al., Juveniles**

Judgment affirmed. Nares, J.; We Concur: Huffman, Acting P.J., Irion, J.

**D046058        In re Contreras on Habeas Corpus**

The petition is denied.

**D046097        Williams v. Superior Court of San Diego County/People**

The petition is denied.

**D046057        In re Hough on Habeas Corpus**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
April 15, 2005 (Continued)

**D046059        In re Schlappi on Habeas Corpus**

The petition is denied.

**D043867        NAS Engineering & Construction Co., Inc. v. San Diego Unified School District**

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately. Each party is to bear own costs on appeal.

**D044949        People v. Jackson**

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 30.3).